

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C) .No. 649 of 2007(B)

PETITIONER:

SANTHOM CONVENT, MATTILAYAM,
VELLAMUNDA P.O., WAYANAD, REPRESENTED BY
ITS MOTHER SUPERIOR SR.CLARET C.M.C.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
JSECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE TAHSILDAR, ASSESSING AUTHORITY,
MANANTHAVADY TALUK, WAYANAD.

BY GOVT.PLEADER SRI JULIAN XAVIER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.R.RAMAN, J.

W.P. (C) .NO.649 OF 2007

Dated this the 8th day of January, 2007

JUDGMENT

Petitioner seeks to challenge Exts.P5, P6 and P7. Ext.P5 is an order of assessment passed under the Kerala Building Tax Act demanding an amount of Rs.8,400/- being the tax in respect of the building in Sy.No.677/1 of Thondernadu Village in Mananthavady Taluk. Ext.P7 is an order passed under the Luxury Tax Act. Ext.P6 is the demand pursuant to Ext.P5. The contention of the petitioner is that the building stands exempted by virtue of Section 3 of the Kerala Buildings Tax Act, since the petitioner is using the building for religious purposes. Ext.P4 is an objection raised before the Tahsildar, Mananthavady, wherein the petitioner has stated that the building is

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being used of religious purposes and also for imparting education to the poor pupil. Placing reliance on Ext.P10 judgment of a Division Bench of this Court it is contended that when a claim for exemption arises for consideration, the only competent authority to decide the same being the Government, the Tahsildar has no jurisdiction to pass an order impugned in this writ petition. By Ext.P10 judgment the Division Bench held that when a claim for exemption under Section 3(1)(b) of the Kerla Building Tax Act, 1975 is made and a question arises, the assessing authority has no jurisdiction to make an assessment. In that view of the matter, the assessment order was set aside and the matter was remitted to the Government for consideration.

2. Following the said decision and in view of the claim for exemption, there will be a

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direction to the Government to consider the claim for exemption made by the petitioner. The Tahsildar shall forward all the necessary papers to the Government on production of a copy of this judgment and thereafter the Government shall decide the matter. Exts.P5, P6 and P7 are set aside. The assessments will however relate anti, if the claim for exemption is refused.

Writ Petition is disposed of as above.

Petitioner shall produce a copy of this judgment before the Tahsildar as well as the Government for information and compliance.

P . R . RAMAN ,
Judge .

kcv.

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